IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (Lodg.) NO. 1156 OF 2007

Gerald Paul D'Mello... ... ... Petitioner.
Versus
The Mumbai Municipal Corporation
of Greater Mumbai & Ors..... Respondents.

Mr. P.J.Thorat for the Petitioner.
Ms.S.Ajith Kumar for the Respondents.

CORAM : SWATANTER KUMAR, C.J. &
DR.D.Y.CHANDRACHUD, J.

DATED : 8TH AUGUST, 2007.

P.C.:

The challenge in this petition, under Article 226 of the Constitution of India, is to the order dated 18th April, 2007 passed by the Executive Engineer (Building Proposal) of the Corporation. Vide the impugned order it was stated as under:

> "To demolish / remove the work carried out beyond repair permission granted under No. ACKE/22073/BF dt. 5.10.2006, as repair work carried out / undertaken which is not in accordance with the permission granted by A.E. (B&F) K/E Ward."

2. A bare reading of the impugned order shows that no reasons whatsoever have been stated in the impugned order, for passing the order, which certainly affects the rights of the petitioner. Wherever the Authority is deciding any right of the party, it is expected not only to hear the party but also give reasons in support of the order. The reasons are certainly expected for arriving at such a conclusion. The reasoning must be atleast indicative of application of mind which could be seen from the language of the order itself.

3. We are satisfied that the impugned order violates the basic principles of natural justice. Resultantly, we quash and set aside the order dated 18th April, 2007 passed by the Executive Engineer, (B&F) Ward of the Corporation and direct the respondent to pass an appropriate order afresh after recording reasons in support of the order. This should be done within four weeks from today and till then the impugned order shall not be enforced against the petitioner. The petitioner will appear before the Authority concerned on 21st August, 2007 at 11.00 a.m.

4. In the event, the order that may be passed by the

concerned Authority, is adverse to the interest of the petitioner, the same shall not be implemented for a period of one week thereafter.

5. No order as to costs.

Sd/-

CHIEF JUSTICE

Sd/-

DR.D.Y.CHANDRACHUD, J.